

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KARL W. WOLFE,

Plaintiff,

v.

LUIS W. LU, M.D.,

Defendant.

Civil Action No. 06-79 Erie

**MEMORANDUM ORDER**

This action was received by the Clerk of Court on March 30, 2006 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 23], filed on February 23, 2007, recommended that Defendant's motion to dismiss and motion to strike [Doc. No. 7] be granted in part and denied in part. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendant. Defendant filed objections on March 12, 2007 [Doc. No. 25] and Plaintiff filed a response to the objections on March 23, 2007 [Doc. No. 27]. After de novo review of the motion and documents in the case, together with the Report and Recommendation, the objections thereto and the response to the objections, and after oral argument on March 30, 2007, the following order is entered:

AND NOW, this 30<sup>th</sup> day of March, 2007;

IT IS HEREBY ORDERED that [Doc. No. 7] Defendant's motion to dismiss is DENIED in all respects; the motion to strike the jury demand is GRANTED; and the motion to strike allegations against Defendant individually is DENIED.

The Report and Recommendation [Doc. No. 23] of Magistrate Judge Baxter, filed on February 23, 2007 is adopted as the opinion of the Court for the reasons set forth on the record on March 30, 2007.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge